

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**Appeal No. 29/2014
(M.A. No. 286/2014)**

And

**Appeal No. 30/2014
(M.A. No. 287/2014)**

And

**Appeal No. 31/2014
(M.A. No. 288/2014)**

And

**Appeal No. 32/2014
(M.A. No. 289/2014)**

Sh. Jai Kumar Bansal Vs. Delhi Pollution Control Committee

And

Sh. Sanjay Jain Vs. Delhi Pollution Control Committee

And

Sh. Krishan Kumar Vs. Delhi Pollution Control Committee

And

Sh. Subah Jindal Vs. Delhi Pollution Control Committee

**CORAM: HON'BLE MR. JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. (DR.) P.C. MISHRA, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

**Present: Applicant / Appellant : Mr. Maninder Singh, Sr. Adv. with Mr. Pawanjit S. Bindra, Adv.
Respondent No.1 : Mr Narender Pal Singh, Adv., Mr. Dinesh Jindal, L.O. DPCC**

Date and Remarks	Orders of the Tribunal
Item No. 2 to 5 May 15, 2014	<p>We have heard learned Senior Counsel appearing for the appellants as well as Counsel appearing for the Delhi Pollution Control Committee (DPCC) at length.</p> <p>In these appeals, the challenge is of the impugned orders passed by the DPCC under section 33(A) of the Water (Prevention and Control of Pollution Act, 1974 as well as under section 31(A) of the Air (Prevention and Control of Pollution Act, 1981 in and by which the DPCC has directed closure of the units on various grounds.</p> <p>These appellant units are carrying on activity of stainless steel pickling in different parts of the Delhi. Similar issue was taken up before the Hon'ble 1st Bench of the NGT in the case of <i>"All India Lokadhikar Sangthan Vs. Govt. of NCT of Delhi (Original</i></p>

Application No. 159/2013).” In order dated 21.08.2013, it was held that the industries in accordance with the provisions of the Water Act, 1974 can neither be established nor operated without consent of the DPCC, obtained in accordance with law. Ultimately, after hearing learned Counsel appearing for the parties and keeping in view the serious environmental impacts of stainless steel pickling industries, restrained all stainless steel pickling units from carrying on their activity/manufacturing anywhere in Delhi without obtaining the consent of the DPCC and other appropriate permission which are required for such operation in accordance with law.

Thereafter, the applications were filed by various project proponents and the matters were again taken by the Tribunal. In the order dated 27.01.2014, the Tribunal held that respondents have made out very clear that they would not operate without obtaining consent from the DPCC in accordance with the provisions of the Act. In such view of the matter and having observed that nothing survives in the application, the Tribunal has directed that no pickling unit would be permitted to operate in Delhi without obtaining consent of the DPCC in accordance with law.

It appears that the appellants have been granted consent to operate by the DPCC in the month of April, 2014, which in all these cases continue till 2016. While so, the impugned order came to be passed by the DPCC on the basis that the appellants have discharged untreated waste water in open drains and on to the roads and in those circumstances, a meeting was called for by the Pr. Secretary, PWD on 07.02.2014 and 05.03.2014 wherein the officers were present and the matter was discussed at length.

It is stated that the matter was again discussed on the issue of drainage in the Wazirpur Industrial area in the meeting held on 13.03.2014 and during the inspection it was observed that all the drains in the area were choked due to silt from the industries of Wazirpur Industrial area and that a large quantity of metallic silt from the pickling units was being discharged directly into the storm water drains without mandatory pre-treatment and screening by the industrial units.

It is also stated that the laboratory of DPCC has collected samples of waste water flowing in the open drains at four locations once again on 24.04.2014 and pH was found to be 0.8, 1.6, 0.9 and 0.8 which establishes that the units engaged in the activity of pickling are not operating their Effluent Treatment Plant to treat trade effluent before discharging into conveyance system leading to WIA CETP, thereby causing pollution.

It is this order which is under challenge. The learned senior Counsel appearing for the appellants would vehemently contend that while the inspection which are stated to have been conducted on 7.02.2014, 5.03.2014 and 13.03.2014 are much before the grant of consent to operate to these appellant's units, it is not known as to how present impugned order came to be passed against the appellants. He would also submit that even on a reference to the contents of the impugned order it shows that the DPCC has taken the sample of waste water in open drains and it is not their case that the waste water has been discharged by the appellant units. He would submit that there are more than 200 units functioning in the said area and in such circumstances the impugned order passed against by picking them which is arbitrary and illegal. On the other hand, the Learned Counsel appearing for the DPCC would submit that the

sample taken shows the alarming situation and, therefore, it is the duty on the part of the DPCC to take appropriate steps to abate environmental pollution and it was submitted that the said section 33(A) of the Water Act enables them to issue such directions and the same cannot be found fault with.

On a reference to the pleadings as well as the arguments advanced by the respective Counsel, we are of the considered view that in as much as under the impugned order, the DPCC has clearly admitted that they have conducted inspection on various days and consents to operate to appellants were granted much later in the month of April, 2014, one cannot comprehend as to how the responsibility can be fixed on the appellant unit. While it is true that there has been discharge of waste water into the open drains, it is the duty of the DPCC to fix the responsibility on the specific unit and take appropriate action.

Moreover, it is not in dispute that the appellants are Members of CETP and if so the duty of the appellants is to take appropriate steps at that level to undertake primary treatment of waste water and the secondary treatment steps are to be taken by the CETP. In case where primary steps are not taken by the appellant units, it is no doubt but true, that it would be open to the DPCC to exercise powers under section 33(A) of the Water Act to take appropriate action. But that is not the reason given under the impugned order. In such view of the matter, we are in total agreement with the contentions raised by the learned Senior Counsel appearing for the appellants and we are of the considered view that the impugned orders do not contain any acceptable reason which can be considered in the light of the consent to operate orders issued to the appellants which continue till 2016.

However, one cannot ignore the fact that it is the duty of the DPCC to see whether there is any discharging untreated waste water into the drains and take appropriate actions like closure and penal actions in accordance with law. Accordingly, while setting aside the impugned order, we remand the matter back to the DPCC with a direction to take samples from in-let and out-let of the ETPs of the individual units of the appellants and find out whether they are meeting with the primary standard before the effluent goes to CETPs in accordance with law.

If in the event of Delhi Pollution Control Committee finding that any of the appellants is in violation of not meeting with the primary standard, it would be open to the DPCC to take appropriate action in the manner known to law. Such action shall be completed by the DPCC within 10 days from the date of the receipt of the copy of the order.

We make it clear that when once the DPCC passes orders, the appellants shall act in accordance with such orders. We also make it clear that even after passing of the orders by the DPCC, the DPCC shall strictly monitor the pickling industries and take action by fixing responsibility as per law on individual units.

Needless to state that as against any order that may be passed by the DPCC against the appellants, it will always be open to the appellant to work out their remedy in the manner known to law.

Accordingly, these appeals stand disposed of and there will be no order as to costs. Since the main appeals are disposed, all the miscellaneous applications also stand disposed of.

....., JM
(Dr. P. Jyothimani)

....., JM

(M.S. Nambiar)

....., EM
(Dr. G.K. Pandey)

....., EM
(Prof. (Dr.) P.C. Mishra)

....., EM
(Ranjan Chatterjee)

